

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

CARLOS LOPEZ NATAL et al

Plaintiff,

v.

UNITED STATES OF AMERICA

Defendants,

CIVIL NO. 98-2209 (DRD)

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U.S. DISTRICT COURT
SAN JUAN, P.R.

ORDER

Pending before the Court is defendant's motion for summary judgment (Docket No. 4) and Plaintiff's opposition thereto (Docket No. 5).

Defendant seeks dismissal of Plaintiffs' complaint alleging absence of genuine issues of material facts under FED. R. OF CIVIL PROC. 56 (c). It is clear, however, that this case is fraught with fact-specific allegations involving questions of credibility which must be submitted to a jury. See Cortes-Irizarry v. Corporación Insular, 111 F.3d 184, 187 (1st Cir. 1997) (to defeat a motion for summary judgment the resisting party must show the existence of a "trial worthy issue as to some material facts"); Greenburg v. Puerto Rico Maritime Shipping Auth., 835 F.2d 932, 936 (1st Cir. 1987) (in summary judgment motions there is "no room for credibility determinations, no room for the measured weighing of conflicting evidence such as the trial process entails, no room for the judge to superimpose his own ideas of probability and likelihood").

Indeed, it appears from Defendant's own motion for summary judgment that there is a genuine and obvious controversy involving each party's credibility as to the facts which gave rise to Plaintiffs' complaint. This determination is further confirmed upon a comparison of the statement of uncontested facts and the affidavits accompanying Defendant's motion for summary judgment and Plaintiffs' opposition thereto.

On the one hand, Defendant alleges and offers affidavits stating that the federal agents' intrusion into Plaintiffs' home was reasonable, justified, "very non-intrusive, non-provocative law enforcement authority." Docket No. 4 at pg. 10. Defendant denies that Plaintiffs were held at gun point or that Plaintiffs Walter López-Barral and Jessica Delgado Báez were forced out of the shower and left standing naked in plain view of several officers. Defendant also asserts that the agents announced and explained their presence to Plaintiffs'; received Plaintiff Ilia Janet Barral's consent prior to entering Plaintiffs' home; requested ambulance assistance to treat Plaintiff Carlos López Natal's nervous condition and later offered to take him to a hospital; and abandoned the house as soon as Plaintiff Carlos López Natal identified himself as a person other than the person the federal agents were looking for. On the other hand, Plaintiffs affirm and offer a sworn statement that the federal agents entered Plaintiffs' home without identifying themselves or showing Plaintiffs a warrant; that Plaintiff Carlos López Natal was held at gunpoint, against a wall and with his arms behind his back while the agents repeatedly asked him whether he was the person in a photograph held by the agents; that the agents were warned that Carlos López Natal suffered a nervous condition; and that Plaintiff Carlos López Natal told the agents that he was not the person in the photograph

and yet the agents continued to ask him whether he was that person.¹

The above is enough to deny Defendant's motion for summary judgment. As has been advanced, summary judgment may not be entered when there are genuine issues of material facts or questions of credibility. Defendant's motion for summary judgment is, therefore, **DENIED**.

IT IS SO ORDERED.

November 11

Date: October , 1999



Daniel R. Domínguez
United States District Court Judge

N:98-2209 SJ

¹Plaintiffs assert other facts in their motion in opposition to summary judgment but those facts were not included in a statement of contested facts nor in an accompanying sworn declaration. Those facts, therefore, will not be considered at this stage of the proceedings.